

San Diego Real Estate

Homeowner Options in Today's Marketplace

Refinancing, Loan Workouts, and
Short Sale Alternatives

By

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Many Homeowners are Facing Challenging Market Conditions

- Adjustable Rate Mortgages are re-setting upward, causing unaffordable rate and payment increases.
- The San Diego Market has experienced a decline in value, causing many homes to be “Upside Down” in equity.
- What are the Options?
- What are the Consequences?



Mortgage Options

1. Refinance your loan into a new fixed rate program. If you qualify and there is equity in your home, this is the first option.
2. Negotiate a Loan Workout. Ask your lender to work with you to modify your loan, extend your payments, or forgive a portion of the debt.



Selling Options

3. Sell Your Home. If a refinance or loan workout appears unlikely, and there is remaining equity in your property, consider listing your property for full market value and use the proceeds to pay off the bank in full.



Selling Options

4. Short Sale Your Home. If your home is worth less than the amount you owe, you may be a candidate for a Short Sale.

A Short Sale occurs when the homeowners sell their property for less than the balance owed. The lender accepts the sale proceeds as full satisfaction of the loan.

Factors Lenders Consider

- Mortgage is in Foreclosure
- Homeowner Hardship
- Debt Overload
- Overall Financial Situation
- Depreciated Property Value
- Need to Sell

A Seller Should Understand

- You should seek tax and legal advice.
- Debt relief may be considered taxable income.
- There can be no proceeds to the seller.
- If there is a second deed of trust, there may be more than one lender to work with.
- Generally, the Buyer will be expected to pay closing costs and the property is sold “as-is.”

A Seller Should Understand

- If you do not have the money for real estate commissions and closing costs to sell the property, they will be handled by the Lender through the short sale.
- You will need to provide a complete picture of your financial situation.
- You will need to cooperate with your agent and the lender to provide the documents requested.

How Does a Short Sale Benefit Both Parties?

- Homeowners benefit by being released from an obligation they can no longer afford, and by avoiding the long-term negative consequences to their credit associated with a foreclosure.
- Lenders benefit because they can avoid the substantial expenses of a foreclosure proceeding and from having another REO property on its books.

How Does a Short Sale Affect Your Credit?

- A lender may report a short sale loan as being “Satisfied,” or being settled for less than the full balance, such as “Settled,” or “Paid Settled.” This would show up as a negative mark on the borrower’s credit report.
- However the lender enters the information, a short sale record should be less damaging to the borrower's credit report than a foreclosure.

What are the Loan Effects?

Do You Still Owe Any Money after the Short Sale? (Example: A deficiency judgment)

- California has “anti-deficiency statutes” that protect certain borrowers from a deficiency judgment - the difference between the unpaid balance of the home loan and the amount produced by the sale.
- A California lender typically chooses a trustee’s sale foreclosure, which is quicker and less expensive than a judicial, or “court” foreclosure.
- With a trustee’s sale foreclosure, the lender generally cannot go after a deficiency judgment.

Are There Tax Effects in a Short Sale?

- The seller may be obligated to pay income taxes on debt forgiven by the lender.
- There are however, some exceptions to this rule that may benefit a taxpayer involved in a short sale:
 - The Mortgage Forgiveness Debt Relief Act of 2007 allows you to exclude cancelled debt on your principal residence.
 - Insolvency - Sellers who are insolvent at the time of the cancellation of debt will not have to pay taxes on the forgiven amount. Insolvency would occur when a borrower's liabilities exceed their assets.

Sellers Should be Aware

- Notices of Default often attract scam artists and predatory lenders offering fraudulent rescue loans, phony credit counseling, and other scams.
- If a Notice of Default has been filed on your property, be aware of these predators and do not speak with them.

The Foreclosure Time Frame

If you are considering a Short Sale, the sooner you move forward, the better your chances for success.

- Day 1 – Notice of Default Recorded
- Day 91 – Notice of Trustee's Sale
- Day 115 – Deadline to cure Default
- Day 122 – Trustee's Sale

To Get Started with a Short Sale:

- Sign the Listing Agreement, Short Sale Addendum, and other needed documents.

Your Agent will:

- Prepare and negotiate with the Lender(s).
- Negotiate with potential buyers.
- Prepare required Lender documentation.
- Work with you to provide the lender the required financial information, such as bank statements, tax returns, and a letter detailing your hardship.

Thank You.



Questions?